

(2) Review reports prepared by a Professional Standards Review Organization (authorized under Part B Title XI of the Act) or a State inspection of care team (authorized under Title XIX of the Act) regarding the quality of a facility's care;

(3) Evaluate reports that may pertain to the health and safety of patients; and

(4) Take appropriate actions that may be necessary to achieve compliance or certify noncompliance to CMS.

(c) A State survey agency certification to CMS that a provider or supplier is no longer in compliance with the conditions of participation or requirements (for SNFs and NFs) or conditions for coverage will supersede the State survey agency's previous certification.

(Secs. 1102, 1814, 1861, 1863 through 1866, 1871, and 1881; 42 U.S.C. 1302, 1395f, 1395x, 1395z through 1395cc, 1395hh, and 1395rr)

[45 FR 74833, Nov. 12, 1981. Redesignated and amended at 53 FR 23100, June 17, 1988, and further amended at 54 FR 5373, Feb. 2, 1989; 56 FR 48879, Sept. 26, 1991; 59 FR 56237, Nov. 10, 1994]

§ 488.24 Certification of noncompliance.

(a) Special rules for certification of noncompliance for SNFs and NFs are set forth in § 488.330.

(b) The State agency will certify that a provider or supplier is not or is no longer in compliance with the conditions of participation or conditions for coverage where the deficiencies are of such character as to substantially limit the provider's or supplier's capacity to furnish adequate care or which adversely affect the health and safety of patients; or

(c) If CMS determines that an institution or agency does not qualify for participation or coverage because it is not in compliance with the conditions of participation or conditions for coverage, or if a provider's agreement is terminated for that reason, the institution or agency has the right to request that the determination be reviewed. (Appeals procedures are set forth in part 498 of this chapter.)

[59 FR 56237, Nov. 10, 1994]

§ 488.26 Determining compliance.

(a) Additional rules for certification of compliance for SNFs and NFs are set forth in § 488.330.

(b) The decision as to whether there is compliance with a particular requirement, condition of participation, or condition for coverage depends upon the manner and degree to which the provider or supplier satisfies the various standards within each condition. Evaluation of a provider's or supplier's performance against these standards enables the State survey agency to document the nature and extent of deficiencies, if any, with respect to a particular function, and to assess the need for improvement in relation to the prescribed conditions.

(c) The State survey agency must adhere to the following principles in determining compliance with participation requirements:

(1) The survey process is the means to assess compliance with Federal health, safety and quality standards;

(2) The survey process uses resident and patient outcomes as the primary means to establish the compliance process of facilities and agencies. Specifically, surveyors will directly observe the actual provision of care and services to residents and/or patients, and the effects of that care, to assess whether the care provided meets the needs of individual residents and/or patients.

(3) Surveyors are professionals who use their judgment, in concert with Federal forms and procedures, to determine compliance;

(4) Federal procedures are used by all surveyors to ensure uniform and consistent application and interpretation of Federal requirements;

(5) Federal forms are used by all surveyors to ensure proper recording of findings and to document the basis for the findings.

(d) The State survey agency must use the survey methods, procedures, and forms that are prescribed by CMS.

(e) The State survey agency must ensure that a facility's or agency's actual provision of care and services to residents and patients and the effects of